**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.26564 OF 2006**

**ORAL ORDER:**

Heard the learned counsel for both the parties and perused the material on record.

This writ petition is filed aggrieved by the order passed by the respondent dated 19.10.2006/2.11.2006, whereunder, the application filed by the petitioner under sub-section (4) of Section 7A of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 (for short "the Act"), was rejected.

It is not in dispute that the petitioner was served with a notice dated 26.4.2006, fixing the date of hearing on 22.5.2006, for the enquiry under Section 7-A of the Act. Since the petitioner was not present, the respondent proceeded with the enquiry and passed an order of assessment under Section 7A of the Act, dated 24.5.2006. Thereafter, the petitioner made an application under sub-section (4) of Section 7A of the Act, seeking to set aside the *ex parte* order, stating that during that period he was sick and was unable to travel. A Doctor Certificate was also enclosed to the application. The said application was rejected under the impugned order, which is under challenge in this writ petition.

It is true that when the said application was posted for enquiry on 16.10.2006, the petitioner was not present. However, the respondent is bound to consider the material placed on record and record a finding, whether any sufficient cause was shown for the absence of the petitioner. Since the impugned order does not reflect such consideration and was not supported by reasons, I am of the opinion that the matter requires reconsideration. Accordingly, the impugned order is hereby set aside and the writ petition is disposed of with a direction to the respondent to consider the application of the petitioner made under sub-section (4) of Section 7A of the Act afresh and pass appropriate orders in accordance with law.

The learned counsel for the petitioner across the bar submitted that the petitioner would appear before the respondent on 29.12.2006 at 11.00 a.m. The same is placed on record and appropriate orders be passed within two weeks thereafter. No costs.

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**(G. ROHINI, J.)**

22nd December, 2006.
Issue CC by Tuesday.
(BO)
Kgr

**THE HON'BLE Ms. JUSTICE G. ROHINI**

**WRIT PETITION No.26564 OF 2006**

22nd December, 2006.

Between:

M/s The Andhra Starch Manufacturing
Co., represented by its Proprietor-
M.B. Sivanandam. .. Petitioner.

And

The Assistant Provident Fund Commissioner
And Authority u/Section 7(A) of the
Employees Provident Fund and
Miscellaneous Provisions Act, 1952,
Kadapa. .. Respondent.